

REMARKS

This is in response to the Office Action dated October 18, 2006. Claims 1-40 are pending.

Applicant notes with appreciation the Examiner's allowance of claims 1-6, 13-18, 25-26, 29-30, 33-34, and 37-38.

Claim 7 stands rejected under 35 U.S.C. Section 103(a) as being allegedly unpatentable over Tsukuda (US 2002/0060979) in view of Saiki (US 6,183,892) and Tanaka (US 6,303,205). This 3-way Section 103(a) rejection is respectfully traversed for at least the following reasons.

Claim 7 requires "a magnetic layer, made of amorphous magnetic material, for magnetically recording information, and subsequent layers provided on the magnetic layer; wherein the magnetic layer has bumps on a surface thereof, height of the bumps on a surface of the magnetic layer is not less than 2% with respect to an average layer thickness of the magnetic layer, and the bumps propagated through to the surfaces of the subsequent layers are provided with a shape different to that of the bumps on the surface of the magnetic layer." The cited art fails to disclose or suggest these features of claim 7.

The combination of Tsukuda and Saiki is fundamentally flawed. The Office Action admits that Tsukuda fails to disclose or suggest using a magnetic layer made of amorphous magnetic material. The Office Action cites Saiki for an alleged opto-magnetic recording medium having an opto-magnetic layer made of amorphous magnetic material. The Office Action contends that it would have been obvious to replace the optical layers of Tsukuda with the amorphous opto-magnetic layer of Saiki. This alleged combination/modification is traversed, as it is improper and would render Tsukuda **inoperable** for its intended purpose; see M.P.E.P. Section 2143.01.

Tsukuda is directed to an optical disc, such as a CD, whose operating principles rely on a laser beam incident on land and groove patterns being reflected in a predictable manner. Saiki, on the other hand, is directed to an opto-magnetic disc, which utilizes a laser to heat a portion of a magnetic disc so as to detect or change the magnetization of that portion of the disc, whereby data is read or stored.

By modifying the optical disc of Tsukuda so as to include an amorphous magnetic layer of Saiki, Tsukuda is rendered inoperable (i.e., destroyed) for its intended purpose. Specifically, such a combination would render Tsukuda unable to properly modulate an incident laser beam, and data could not be properly read from the disc. Accordingly, one of ordinary skill in the art would never have modified Tsukuda by replacing the optical layers of Tsukuda with the amorphous opto-magnetic layer of Saiki as alleged in the Office Action, because this would destroy the operability and functionality of the base reference to Tsukuda.

Furthermore, the alleged motivation to combine in the Office Action lacks merit. The Office Action contends that one would combine Saiki with Tsukuda to provide Tsukuda with saturation magnetization and to reduce film thickness of the medium. It is pointed out that because Tsukuda concerns an optical disc, there is no need to provide the disc of Tsukuda with magnetization. Moreover, there is no disclosure from Sakai that the amorphous magnetic layer would reduce thickness of the medium. Thus, this alleged motivation to combine set forth in the Office Action is illogical and unreasonable.

Because the alleged combination of Tsukuda and Saiki is fundamentally flawed as explained above, all Section 103(a) rejections in the Office Action lack merit and should be withdrawn. Thus, claims 7-9, 19-21, 27, 31, 35 and 39 are in condition for allowance.

Additionally, the alleged teachings of Tanaka also do *not* lead to the inventions of claims 7, 19, 27, 31, 35 and 39. Claims 7, 19, 27, 31, 35 and 39 require that the height of the *bumps on a surface of the magnetic layer is not less than 2% with respect to an average layer thickness of the magnetic layer*. The cited art fails to disclose or suggest this.

The Office Action relies on Tanaka for this feature. Tanaka teaches providing protrusions on the *surface of a disc* (not on a surface of magnetic layer 4), the protrusions in Tanaka being provided for reducing friction and helping to clear dust (see Tanaka at col. 3, lines 10-23). The Office Action proposes to apply the teaching of Tanaka relating to protrusions to guide grooves of Tsukuda. However, the references do not teach or suggest such a combination. Tsukuda teaches a flat polycarbonate sheet 101 on the upper surface of the disc (e.g., see Fig. 1 of Tsukuda), and the guide grooves are not present on the top surface in Tsukuda. On the other hand, the protrusions of Tanaka must be present on the top surface of the disc to achieve their stated intended purpose. Accordingly, it will be appreciated that neither Tsukuda nor Tanaka teach or suggest that the guide grooves can be combined with the protrusions of meet bumps of claim 7 for example. If one were to apply protrusion teachings of Tanaka to Tsukuda, the protrusions would be on a top surface of the disc, not on a surface of the magnetic layer as required by these claims. Thus, the Office Action's reliance on Tanaka is also fundamentally flawed. Claims 7, 19, 27, 31, 35 and 39, which require that the *height of the bumps on a surface of the magnetic layer is not less than 2% with respect to an average layer thickness of the magnetic layer*, clearly define over the cited art for at least this additional reason.

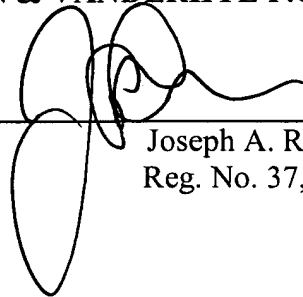
It is respectfully requested that all rejections be withdrawn. All claims are in condition for allowance. If any minor matter remains to be resolved, the Examiner is invited to telephone the undersigned with regard to the same.

SATO, J. et al.
Appl. No. 10/679,696

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____

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